

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

EPIC GAMES, INC.,

*Plaintiff, Counter-defendant,*

APPLE INC.,

*Defendant, Counterclaimant.*

Case No. 4:20-cv-05640-YGR-TSH

**OBJECTION TO SPECIAL MASTER  
RULING ON APPLE INC.'S  
PRODUCTIONS OF RE-REVIEWED  
PRIVILEGE DOCUMENTS**

The Honorable Thomas S. Hixson  
San Francisco Courthouse  
Courtroom E - 15th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Dear Magistrate Judge Hixson,

Pursuant to section 4 of the Joint Stipulation and Order Approving Privilege Re-Review Protocol (Dkt. 1092) (the “Protocol”), Apple respectfully submits the following Objection to one of the Special Master’s rulings on Apple’s production of re-reviewed and privileged documents identified by Epic as “priority” review documents from Apple’s fifth production on January 22, 2025. We are submitting the document for *in-camera* review contemporaneously with this filing.

Apple’s objection relates only to a document Apple believes is not already covered by Your Honor’s and Judge Gonzalez Rogers’ existing rulings on Apple’s privilege assertions in this post-judgment discovery. As previously noted, *see* Dkt. 1109, Apple reserves all rights as to documents affected by those rulings, including any post-judgment appellate rights.

**Entry No. 7786 (PRIV-APL-EG\_00226083) on the January 22, 2025 Privilege Log.**

**Entry No. 7786 (PRIV-APL-EG\_00226083)** is a draft of a legal document authored and revised by attorneys entitled “StoreKit External Purchase Link Entitlement Addendum for US Apps.” This is a draft addendum to the Developer Program License Agreement—the contract that all iOS developers enter into with Apple. This document is a working draft reflecting legal advice being sent to a client for consideration. **Entry No. 7786 (PRIV-APL-EG\_00226083)** is labeled “Draft – Privileged and Confidential – Attorney Work Product” and includes placeholders for certain terms and conditions. “Drafting legal documents is a core activity of lawyers, and obtaining information and feedback from clients is a necessary part of the process.” *Diversey U.S. Holdings, Inc. v. Sara Lee Corp.*, 1994 WL 71462, at \*1 (N.D. Ill. Mar. 3, 1994); *see also Se. Pa. Transp. Auth. v. Carmarkpcs Health, L.P.*, 254 F.R.D. 253, 258 (E.D. Pa. 2008) (“Preliminary drafts of contracts are generally protected by attorney/client privilege, since they reflect not only client confidences, but also legal advice and opinions of attorneys, all of which is protected by the attorney/client privilege.” (cleaned up)); *Barnes-Wallace v. City of San Diego*, 2002 WL 35646619, at \*4 (S.D. Cal. Dec. 5, 2002) (“As a general rule, preliminary drafts of documents are protected by the attorney-client privilege.”). Although the Court has not upheld Apple’s privilege assertions over all draft addenda shared by counsel, Apple maintains that drafts of contract addenda prepared by legal counsel are privileged. As a working draft, the document is a privileged attorney-client communication and should be withheld.

DATED: February 14, 2025

WEIL, GOTSHAL & MANGES LLP

By: /s/ Mark A. Perry  
Mark A. Perry

*Counsel for Defendant Apple Inc.*